

# ***CONSUMER PROTECTION COMMITTEE***

## ***Of the***

## ***Suffolk County Legislature***

A meeting of the Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York, on November 30, 2005.

### **Members Present:**

Legislator Cameron Alden • Chairman  
Legislator Jay Schneiderman • Vice•Chair  
Legislator Lynne Nowick  
Legislator William Lindsay  
Legislator Jon Cooper

### **Also In Attendance:**

Mea Knapp • Counsel to the Legislature  
Alicia Howard • Aide to Legislator Montano  
Lisa Keys • Aide to Presiding Officer Caracappa  
Ilona Julius • Deputy Clerk of the Legislature  
Gail Vizzini • Director/Budget Review Office  
Lance Reinheimer • Assistant Director/Budget Review Office  
Robert Lipp • Chief Economist/Budget Review Office  
Joe Muncy • Budget Analyst/Budget Review Office  
Eric Brown • Aide to Legislator Schneiderman  
Ryland Gaines • Aide to Legislator Montano  
James Dahroug • County Executive Assistant  
Charles Gardner • Director of Consumer Affairs  
Bruce Dragonette • Assistant Director of Consumer Affairs.  
Lynne Bizzarro • Deputy County Attorney  
All Other Interested Parties

**Minutes Taken By:**

Alison Mahoney • Court Stenographer

***(\*The meeting was called to order at 1:05 P.M. \*)***

**CHAIRMAN ALDEN:**

Good afternoon and welcome to Consumer Protection. And we'll have the start of this by •• or the Pledge led by Legislator Schneiderman; is that good?

***Salutation***

I'd also ask for a moment of silence, as is tradition in this committee, just in honor of those that have given up their lives and those who continually put their lives in harm's way for our safety and our way of life and freedom.

***Moment of Silence Observed***

Thank you. I don't believe we have any cards.

**MS. JULIUS:**

We don't have any.

**LEG. LINDSAY:**

I'd like to talk to the Commissioner. Can we get Charlie Gardner •• not Commissioner, Director.

**CHAIRMAN ALDEN:**

So the first thing we'll do is, Charlie, come on up. And Charlie, I know you monitor heating oil, gasoline, fuel oil, things like that, so can you give us a

little overview of how we're looking going in to this winter?

**DIRECTOR GARDNER:**

Well, I have the most recent surveys for both home heating oil and gasoline as of yesterday for the committee, and thankfully it's still downward. The average as of •• average gasoline price as of yesterday was more than a dollar cheaper than it was September the 6th, and it's the same price it was about six months ago.

**CHAIRMAN ALDEN:**

That's wholesale?

**DIRECTOR GARDNER:**

We're actually down to in the teens at a few places, \$2 in the teens ••

**LEG. NOWICK:**

Where?

**DIRECTOR GARDNER:**

•• but there are a few places around. Home heating oil is the same trend from its peak in early September, average 2.66, it's down to as of yesterday \$2.30, the lowest being \$1.939.

**CHAIRMAN ALDEN:**

Legislator Lindsay?

**LEG. LINDSAY:**

Just a couple of questions, Charlie, about •• I know that we monitor gas stations as far as the octane level and whether it's a true gallon; we do the same thing with fuel oil deliveries?

**DIRECTOR GARDNER:**

Not as much. We do a few tests, but usually that relates only to the sulfur content.

**LEG. LINDSAY:**

Okay, but do we check their metering to make sure when they deliver a gallon of fuel oil it's a true gallon?

**DIRECTOR GARDNER:**

Yes. There are approximately 825 home heating oil, fuel oil meters in the County, all of them are tested at least once.

**LEG. LINDSAY:**

On every truck?

**DIRECTOR GARDNER:**

On every single truck, that's correct. Also the propane deliveries, there's about 125 trucks that deliver propane by meter, all of those meters are also tested.

**LEG. LINDSAY:**

Okay. But primarily we check that for gallonage ••

**DIRECTOR GARDNER:**

Accuracy.

**LEG. LINDSAY:**

•• not so much content.

**DIRECTOR GARDNER:**

Not so much quality as accuracy, correct.

**LEG. LINDSAY:**

The other thing is a question that, again, came from a constituent that I don't have the answer, maybe you could share something. We've seen the price of gasoline drop dramatically over the last two months, but we haven't seen diesel fuel drop; can you explain why that's the case?

**DIRECTOR GARDNER:**

Well, it has dropped some, it hasn't dropped as steeply as gasoline, that has to do with the cracking, you know, of the barrel accrued. Diesel is a lot more similar to home heating oil and so those supplies are completely different

than gasoline, but it has come down, just not as much as gasoline.

**LEG. LINDSAY:**

But diesel isn't refined as much as gasoline, right? Wouldn't you think it would be? I mean, at one time diesel fuel was cheaper than gasoline.

**DIRECTOR GARDNER:**

Oh, yeah, that's ancient history, though.

**LEG. LINDSAY:**

Okay.

**DIRECTOR GARDNER:**

I don't mean to date you or myself but, I mean, yeah, that was a long time ago. For instance, Legislator, if you look at the price of home heating early since early September, that's dropped but it's only dropped about 30 cents. Gasoline has dropped almost \$1.30 and home heating oil is a lot more similar; in fact, virtually indistinguishable from diesel motor fuel. So those supplies, that whole supply route and the refining process is completely different than gasoline.

**LEG. LINDSAY:**

Okay. And there's absolutely nothing that we can do about that, right?

**DIRECTOR GARDNER:**

No, not at this level, no.

**LEG. LINDSAY:**

And if I might, Mr. Chairman, while I have the Director up; how are you doing in terms of staffing at the Department of Consumer Affairs?

**DIRECTOR GARDNER:**

Well, our most critical positions which are Home Improvement Investigators because that's the largest number of complaints that we get, the last month and a half has not gone so well. We lost one person, we didn't lose the position but we lost the position because he assumed full•time union duties,

so while he is still on the books as working for our office, he is actually not working for our office, he's full-time union release. So even though that position still shows up in my budget as a Home Improvement Investigator II, I really don't have him, he's not there and won't be there for the long term, not the short-term. So that took away one employee. I just ••

**LEG. LINDSAY:**

That's what generated the question, by the way. I don't know about the rest of you, but I got a letter about this, I don't know whether anybody else did.

**CHAIRMAN ALDEN:**

Yep.

**DIRECTOR GARDNER:**

Well, that was •• just speaking very selfishly now, and I don't deny anybody the right to better themselves, but just selfishly, that was a double hit to us because it, A, took away one of my most critical investigators and, B, I'm still paying his salary and, C, I can't replace it; so that's a position that's there but it is really not there.

And as of this Friday, one of my remaining two Home Improvement Investigators is leaving the office, he got a very substantial raise and a very nice offer from the Town of Brookhaven, he'll be starting there Monday, so as of Monday I will have one Home Improvement Investigator. We right now have approximately 300 open cases, so he's going to have all 300.

**CHAIRMAN ALDEN:**

Bill, the letter you referenced, it's unsigned, right, it just says about the ••

**LEG. LINDSAY:**

Right, absolutely.

**CHAIRMAN ALDEN:**

•• additional burden on it. It did come out a little bit in some of the budget hearings because this was approved I guess at our last ••

**DIRECTOR GARDNER:**

This was a letter from •• not from us.

**CHAIRMAN ALDEN:**

Not from you.

**DIRECTOR GARDNER:**

Oh, okay.

**CHAIRMAN ALDEN:**

It's somebody in your department sent a letter to Legislators stating that if we approved •• and I think we had approved something here; what was it, maybe ••

**LEG. LINDSAY:**

I don't remember; it was a nasty gram.

**CHAIRMAN ALDEN:**

We approved an additional position somewhere that allowed this to happen, wasn't that what happened?

**LEG. LINDSAY:**

I don't remember.

**DIRECTOR GARDNER:**

Well, it wasn't an additional position, it was an employee who is now an officer of the union so has gone to full•time union duty, which is fine except that I can't fill that position because that position still stays on my books, in my budget.

**CHAIRMAN ALDEN:**

But wasn't it •• wasn't there a •• I'm trying to remember, I thought there was a resolution to create another position to put it in to your department?

**LEG. LINDSAY:**

As I recall, it was that we did not have enough positions in the budget to satisfy this individual.

**CHAIRMAN ALDEN:**

I know what happened, he had a desk audit, right, his position was upgraded ••

**DIRECTOR GARDNER:**

Oh, yes, that's correct.

**CHAIRMAN ALDEN:**

•• and then he was transferred out. So we had to approve the audited position and then he actually ••

**DIRECTOR GARDNER:**

At the same time that the desk audit was approved, this individual went to the union.

**CHAIRMAN ALDEN:**

Right, so we gave an upgrade and then he transferred out and that's the time when somebody circulated a letter to us that stated there was going to be, you know, some people left in that department that were going to be overworked and stretched right to the ••

**LEG. LINDSAY:**

And my point for raising it is I don't give much credence to an unsigned letter to start off with, but I am always concerned about Consumer Affairs because it's a department within the County that not only does a good job but is a money maker for the County, and if we don't have it adequately staffed we're going to lose revenue.

**DIRECTOR GARDNER:**

And I might point out that our budget request for '06 did have an extra Home Improvement position in it and it was approved, but because of the movement with the union I'm right back where I started from. Even though I got a new position, I don't really have a new position as of '06, we're going to be at the same level we were instead of having an additional position.



**CHAIRMAN ALDEN:**

This is a question to Budget Review or Legislative Counsel; when would it be appropriate for us, if we thought •• and we get some agreement on it, to create either one or two positions that the Commissioner was just mentioning? Because we just passed the budget for '06, now that would be modifying the '06 budget, right?

**MS. KNAPP:**

The first opportunity for you to amend the '06 budget would be in February, and you have to do a budget modification as well as amending •• or no, just do a budget modification and add the position.

**LEG. LINDSAY:**

But I think in the interim, I mean, you have the authority to fill the one position, right?

**DIRECTOR GARDNER:**

Well, as of Monday, yes, when my one Investigator •• yes, so I'll be able to fill that and replace him as of Monday.

**LEG. LINDSAY:**

Okay. And do you have any other vacant positions in your budget?

**DIRECTOR GARDNER:**

Well, there's a vacant Weights & Measures Inspector position that we're getting ready to interview for now, yeah. Yeah, and this was just, you know, bad timing, this was like nobody's fault as far as the budget, but all this happened after the budget came in and, you know ••

**CHAIRMAN ALDEN:**

I'm not saying fault, I'm just saying that there's a need now that's been created.

**DIRECTOR GARDNER:**

Yeah, it just happened at the wrong time.

**LEG. LINDSAY:**

But my point is, you know, before we have the opportunity to amend the operating budget which is three months hence, in the interim, you know, we just have to fill the positions that we're capable of filling.

**CHAIRMAN ALDEN:**

Unless somebody can come up with an imaginative solution to that, I don't know. All right. Bill, do you have any ••

**LEG. LINDSAY:**

Nope.

**CHAIRMAN ALDEN:**

Okay. Anybody else? All right, thanks, Charlie.

All right, we'll go right into the agenda then. I'll ask the Clerk's Office, we have a public hearing, 2140, that we recessed at the last one. Are the affidavits of publication all in order?

**MS. JULIUS:**

Yes, they are in proper order, Mr. Chairman.

**CHAIRMAN ALDEN:**

Okay. **2140•05 • Adopting Local Law No. 2005, a Local Law to limit price increases at gas service stations in Suffolk County to no more than once in any calendar day (Caracappa).** I don't have any cards for anybody to speak at this. There was some interest in some other people coming down to express some concerns and even some support for this, so I'm just going to make a motion to recess this.

**LEG. NOWICK:**

Second.

**CHAIRMAN ALDEN:**

Second by Legislator Nowick. All those in favor? Opposed?  
**That public hearing stands recessed (VOTE: 5•0•0•0).**

### **Tabled Resolutions**

**1835•05 • Adopting Local Law No. 2005, a Local Law to amend Resolution No. 396•2005 (County Executive).** Mea, could you just give us an explanation on that first? Hi, Lynne. Lynne, is this one of the ones you wanted to speak on?

**MS. BIZZARRO:**

Yes, just in terms of asking that the resolution be tabled. Myself and Charlie Gardner are working together on the resolution. I think we have an agreement in terms of how we want it to look but it looks like it's going to be amended ••

**CHAIRMAN ALDEN:**

Oh, okay.

**MS. BIZZARRO:**

•• I just haven't had an opportunity to do that.

**CHAIRMAN ALDEN:**

Because this is a County Executive resolution.

**MS. BIZZARRO:**

Correct.

**CHAIRMAN ALDEN:**

So I'll make a motion to table, second by Legislator Cooper. All those in favor? Opposed? ***That one is tabled (VOTE: 5•0•0•0).***

Now, Lynne, any time you want to just wave to me, because I know you had a list of stuff, all right?

**2140•05 • Adopting Local Law No. 2005, a Local Law to limit price increases at gas service stations in Suffolk County to no more than**

***once in any calendar day (Caracappa).*** That has to be tabled again because the public hearing is still recessed. So motion by myself, second by Legislator Cooper. All those in favor? Opposed? ***2140 is tabled for the public hearing (VOTE: 5•0•0•0).***

### **Introductory Resolutions**

***2157•05 • Adopting Local Law No. 2005, a Local Law to strengthen the penalties for the sale and delivery of "Bootleg" gasoline (Lindsay).***

**MS. JULIUS:**

Mr. Chairman, it has to be tabled.

**CHAIRMAN ALDEN:**

That has to be tabled. And Bill, you have it in the General Session, right?

**MS. JULIUS:**

Yes.

**CHAIRMAN ALDEN:**

All right, I'll make a motion to table that for a public hearing, second by Legislator Lindsay. All those in favor? Opposed?

***2157 is tabled for the public hearing (VOTE: 5•0•0•0).*** And for anybody that's interested, that will be out in Riverhead at the General Session, right?

**MS. JULIUS:**

Yes, it will.

**CHAIRMAN ALDEN:**

Okay, thank you.

***2206•05 • Adopting Local Law No. 2005, a Local Law to prevent unwarranted price increases by wholesale motor fuel distributors***

**and service station operators (Cooper).** That I think is going to be a ••

**MS. JULIUS:**

Mr. Chairman?

**CHAIRMAN ALDEN:**

•• **public hearing at the next General Session?**

**MS. JULIUS:**

Yes.

**CHAIRMAN ALDEN:**

Okay. So motion by Legislator Cooper to table it for a public hearing, second by myself. All those in favor? Opposed? **2206 is tabled for the public hearing (VOTE: 5•0•0•0).**

### **Sense Resolutions**

**Sense 77•2005 • Sense of the Legislature Resolution requesting legislation to protect consumers from unwarranted cellular phone charges (Alden).** I'm going to make a motion to approve.

**LEG. NOWICK:**

Second.

**LEG. COOPER:**

Second.

**CHAIRMAN ALDEN:**

Second by Legislator Nowick. All those in favor? Opposed?  
**Sense 077 is approved (VOTE: 5•0•0•0).**

### **Tabled Sense Resolutions**

**Sense 66•2005 • Sense of the Legislature Resolution requesting the New York State Legislature suspend collection of sales tax on gasoline (Schneiderman).**

**LEG. SCHNEIDERMAN:**

This has been amended to be a three month suspension.

**CHAIRMAN ALDEN:**

Okay. Is it •• was it amended in time to be eligible to be voted on today?

**LEG. SCHNEIDERMAN:**

Yeah, there's no seven day rule on a Sense Resolution.

**CHAIRMAN ALDEN:**

Okay. So we have a motion by Legislator Schneiderman to approve.

**LEG. COOPER:**

Excuse me, on the motion.

**CHAIRMAN ALDEN:**

On the motion, Legislator Cooper.

**LEG. COOPER:**

Do we know the fiscal impact of this? I think we had asked that last time.

**LEG. SCHNEIDERMAN:**

Yeah, BRO had performed an analysis based on the three month. I'm not sure, though, which price of gasoline did you use, the current price or the price that was listed in the resolution of \$3.25 versus the current price of \$2.30.

**MS. VIZZINI:**

Yeah, we were just updating the fiscal impact based on the change from six months to three months.

**LEG. SCHNEIDERMAN:**

And which price did you use?

**MS. VIZZINI:**

Two dollars and 30 cents.

**LEG. SCHNEIDERMAN:**

Oh, you did the current price, okay.

**MS. VIZZINI:**

So it is a Sense Resolution. If it were to go into effect it would have to be followed by another resolution demonstrating the impact on the operating budget. However, as a Sense Resolution, there •• we would anticipate that there would be a loss of revenue of about \$12.5 million in anticipated sales tax. The 2006 Operating Budget is already adopted and it does anticipate receipt of revenue of this magnitude.

**LEG. SCHNEIDERMAN:**

Gail, did you factor into your analysis any stimulatory affects that such a reduction in sales tax might have in terms of increasing travel, tourism, shopping, various things that people might jump in their car and, you know, be more likely to spend money in Suffolk County because of the lower tax rate?

**MS. VIZZINI:**

We didn't do any quantitative projections, however we do indicate that the •  
• it's likely to be an increase in the demand for gasoline since the price will be a little cheaper and the demand for related goods and services. But it would be offset if the reduction in revenue has to be made up by an increase in property taxes in 2007.

**LEG. SCHNEIDERMAN:**

Okay. So we'd have to make \$12 million up somewhere else, in your view.

**MS. VIZZINI:**

In terms of the budget, yes.

**LEG. SCHNEIDERMAN:**

I have a way we can do that, though we can cross that bridge at a later date. We have set 10 million ••

**LEG. COOPER:**

Actually, before I vote, I'd love to know what your idea is.

**LEG. SCHNEIDERMAN:**

Well, here's my thought.

**CHAIRMAN ALDEN:**

Let me just •• hold it, let me just ask a question, though. We have a motion to approve by Legislator Schneiderman, right?

**MS. JULIUS:**

Yes; no second yet.

**CHAIRMAN ALDEN:**

No second. I'll second it. Now we can debate the bill. Go ahead, Jay.

**LEG. SCHNEIDERMAN:**

I think the bulk of it could come from this. You know, we've set aside this year for the first time \$10 million in a reserve fund for catastrophic illness, and typically the way municipalities do that, if you're self•insured you buy insurance, you don't set aside a fund. So to buy \$10 million worth of insurance would come at a fraction of the cost of actually setting \$10 million aside. If we did that, we'd still have the same protections and that would free up close to \$10 million, probably nine and a half million dollars or more that we could use to offset the cost of reducing the sales tax on gasoline.

**CHAIRMAN ALDEN:**

Okay, we have a list. Legislator Nowick wanted to comment and then Legislator Cooper.

**LEG. NOWICK:**

Yeah, just a question on this. The New York State sales tax on gasoline is how much, what's the percentage?

**CHAIRMAN ALDEN:**

The neat thing about it is it's a tax on top of a tax.



**MS. VIZZINI:**

It's the full eight and five•eighths.

**LEG. NOWICK:**

Eight and five•eighths on every gallon of gas?

**MS. VIZZINI:**

Correct, like any other product.

**LEG. NOWICK:**

That's just the State portion, eight?

**MS. VIZZINI:**

No, the State portion is ••

**LEG. NOWICK:**

Because this is just dealing with the State right now.

**MR. LIPP:**

The entire tax is eight and five•eighths. The County's four and a quarter, four through the General Fund and Police combined and a quarter for Water Protection, and then the remainder is the State and MTA.

**LEG. NOWICK:**

So this •• if this should go through and the State grants the request, it's 8.5 on each?

**MR. LIPP:**

Eight and five•eighths is the total but this is a request for the County, not •• it would be up to the State whether or not they want ••

**LEG. NOWICK:**

So this is just for the County, so the County is four •• what is it?

**LEG. SCHNEIDERMAN:**

Four and a half.

**MR. LIPP:**

Four and a quarter. But it should also be noted that the sales tax is a State administered system, so the State is not likely to want to do this unless they decide to do it Statewide.

**LEG. NOWICK:**

Okay. But just assuming that the State agreed, it's on the 4.25 that we're talking about.

**MR. LIPP:**

Correct.

**LEG. NOWICK:**

So •• and I'm just trying to get an idea, if you put 20 gallons of gas in your car, I guess we're talking about 80 cents you save to fill up or something like that, 80, 82, something; I'm trying to think of how much I would go out shopping more if I saved that 80 cents.

**LEG. SCHNEIDERMAN:**

Well, it adds up.

**LEG. NOWICK:**

You know, I'm trying to figure out ••

**LEG. SCHNEIDERMAN:**

You know, I mean ••

**CHAIRMAN ALDEN:**

Hold it, Jay. Legislator Cooper is waiting to ask a couple of questions, too.

**LEG. NOWICK:**

I'm trying to think of if the amount we lose would offset ••

**MR. LIPP:**

We have an estimate of a fiscal impact of a little bit under \$30 per user, per year.

**LEG. NOWICK:**

Per year.

**MR. LIPP:**

Per year, for the three month period.

**LEG. NOWICK:**

But yet we would be 12 million in the whole?

**MR. LIPP:**

Yes, correct. And there are also some long-term issues that aren't addressed here at all that we did address in a memo a couple of months ago, just so you know.

**LEG. NOWICK:**

Yeah, right. And the point I was making is I'm not so sure that this would stimulate the economy at 80 cents a fill-up. I don't know if it would provoke people to go out shopping more and driving around more, but ••

**MR. LIPP:**

I could give you a partial answer to that.

**LEG. NOWICK:**

Okay.

**MR. LIPP:**

Usually in terms of economic analysis, there is •• Legislator Schneiderman is correct, that there is a positive economic impact assuming there is no property tax change, however, it's a partial impact. So in other words, it won't stimulate enough economic activity to eliminate the 12 million, but to partially reduce it. And it's difficult, if not impossible, to determine a number on that, so just to pick a number out of the air, let's say the impact is 12 million and the economic positive as a result might reduce to 10.

**LEG. SCHNEIDERMAN:**

Okay, fair enough. So we'd have to cover 10 million, not 12 million.

**LEG. NOWICK:**

What do you base that on, that stimulus? I mean, do you feel that people are ••

**MR. LIPP:**

Just years and years of reading economic literature, not looking at any specific item here. There's just •• it's too small to be able to, with available data, to estimate the specific impact of something like this.

**LEG. NOWICK:**

But do you •• are you thinking that if people see that the sales tax •• and by the way, I mean, I'm always supportive of taking taxes off and helping our constituents, but do you see it as, all right, we're going save the public 4.25% on each gallon, do you see that then mentally they say, "Hey, you know what? Now I can go out spending more money". I mean, is that how you base it? I'm trying to figure out, does the average person ••

**MR. LIPP:**

The way it works is it works at the margin, so whenever there's a change in price •• which is what it is, a change in price •• there will be some people at the margin that will consume more because the price is less. The majority of the people will not change their habit significantly or a lot of people won't change them at all, but at the margin there's always people on the fence that will change their habits if there's a small increase or decrease, so that's what we're talking about.

**LEG. NOWICK:**

Okay, thank you.

**CHAIRMAN ALDEN:**

Legislator Cooper.

**LEG. NOWICK:**

Oh, he's on the Internet, you can see, look at him.

**LEG. COOPER:**

I'm at a disadvantage, I didn't have my own laptop in front of me so I lost a few minutes here. But I know that we had spoken about this at the last committee meeting and perhaps either Budget Review or Legislative Counsel can explain, how is it that the sales tax is actually collected? It's not collected at the pump, is it a tax that's imposed at the wholesale motor fuel distributors, or exactly where is it collected?

**CHAIRMAN ALDEN:**

A whole bunch of places, but ••

**MR. LIPP:**

It is basically collected at the pump. There are several taxes, there's an excise tax by the State, by the Federal government that's added on to the price and then the sales tax on top of all of that stuff, and then there's another State excise tax above that. And then there's some very, very small, at the wholesale level, taxes that are added prior to all of that, too. So there are a couple of very small taxes before it gets to the retail level and then the bulk of it, though, is three excise taxes, one Federal, two State and the overall County sales tax at the pump.

**MS. KNAPP:**

Robert is really most expert at that. The only thing that I would add that makes it, in my opinion, extraordinarily confusing is that some of the taxes are per gallon taxes and some of the taxes are based upon the price, and that complicates it.

**MR. LIPP:**

Yeah, the three excise taxes are per gallon, so it doesn't matter what the price is. And the sales tax itself, the full sales tax of eight and five eighths is on the price.

**LEG. COOPER:**

Critics of efforts to eliminate sales tax in gasoline claim that there's no guarantee that a gasoline tax reduction will be passed along to consumers. It says, "Gasoline taxes typically are incorporated into the price of gasoline. In order for a consumer to benefit from a gas tax reduction or suspension, an oil distributor or supplier must be willing to pass along the tax cut to

consumers. And there is evidence that major portions of this type of tax reduction are likely to be captured by the sellers of gasoline, not the purchasers."

**LEG. NOWICK:**

How could that be?

**LEG. COOPER:**

Do you understand the point that they're making?

**LEG. SCHNEIDERMAN:**

Can I respond to that? I mean, the same argument can be made for any tax reduction, whether we take the price off •• another tax off of clothing or food, whatever it might be. But we did have testimony last •• just two weeks ago from gasoline retailers who said that there was great competition in the market and that they had to keep their prices down because somebody else would undercut them and all the business would go to that other gas station. So if they have the ability to lower the price by four cents or four and a quarter cents, if they don't do it somebody else is going to do it and they're going to lose business. So either those economic forces aren't at play or they are, and we had testimony that they were.

**LEG. NOWICK:**

Maybe I'm confused. Through the Chair, if I may?

**CHAIRMAN ALDEN:**

Well, Jon, is it okay? Okay, go ahead, Lynne.

**LEG. NOWICK:**

But if this goes through, it has nothing to do with the price of gas going up and down, it's a tax.

**LEG. SCHNEIDERMAN:**

But the taxes typically at gas stations is built into the price you see on the pump.

**LEG. NOWICK:**

Right, but ••

**LEG. SCHNEIDERMAN:**

That includes the tax.

**LEG. NOWICK:**

So what you're thinking is that ••

**MR. LIPP:**

I could explain that. Legislator Cooper is correct, it has to do with what's referred to really as price elasticity of demand, that is the more inelastic demand is •• in other words, you'll buy it regardless of whether the price is high or low •• than the more so the burden of the tax is on the consumer. And in general, guess is inelastically demanded, although it's not completely the case so that the greatest portion of the burden is on the consumer. So what Legislator Cooper is saying is that much of the, but not all, much of the benefit associated with a tax decrease would be received by the supply site at the market, that's a fact. So that there's going to be some sharing. You know, and it's hard to say exactly what that is, we could come up with some estimates, but let's just say for argument's sake that 60% of the benefit would receive by suppliers and 40%, just to pick a number, by consumers, you and I.

**LEG. SCHNEIDERMAN:**

So what you're saying is that even if we eliminate the tax, the price on the gas that includes the tax won't go down by the full amount that we reduced it.

**MR. LIPP:**

Yeah. Really what a tax is, the way you can think of it is like a business expense so, you know, whatever, you know, you're running the gas station, you have expenses for your labor, whatever, and one of your expenses, whatever Uncle Sam or Uncle Steve Levy, you know, puts in terms of a tax, the County I mean. You know, so it's looked at as a business expense. The question is, you know, if your expenses go up or down, do you therefore provide a lower or higher price to the consumer, and that necessarily depends upon the forces we were just talking about.

**LEG. SCHNEIDERMAN:**

It just seems like people would never lower taxes if that were the case.

**MR. LIPP:**

It depends upon, once again, the relative •• how interelastic demand is. You know, if you're willing to buy at any price than that would be the case that the producer would get the full benefit, but that's not quite the case. You know, we all have some flexibility.

**LEG. SCHNEIDERMAN:**

Why did the retailers in gasoline go down, why didn't they keep the price at \$3 a gallon when people were buying it at \$3 a gallon? It's obviously because there are other forces at work here.

**MR. LIPP:**

Exactly, yes. Yeah, so in other words it's not that the suppliers are going to be able to reap the full benefit, there's going to be a sharing. I think Legislator Cooper's point is that it won't be a hundred percent benefit to the consumer, there will be a sharing of that savings.

**LEG. SCHNEIDERMAN:**

If there was a monopoly than it would be I guess zero percent because the retailer wouldn't care, but if there is a competitive market which we think there is for gasoline, then I would think there would be a significant benefit to the consumer.

**MR. LIPP:**

Yes, you're right. But there's •• and the only two things you need to know in life, demand and supply. So from the demand side it's going to have an impact where the consumer would be willing to give up •• you know, it would not have the full benefit, but from the supply side there is certainly enough competition where that's not going to fully be the case, so there's going to be a sharing of the benefit.

**CHAIRMAN ALDEN:**

Legislator Cooper.



**LEG. COOPER:**

I'm just concerned that 50% or 60% of this benefit may accrue to the suppliers of the "Big Oil" companies or the major distributors. And if we were really concerned about mitigating the impact of higher fuel prices or home heating oil prices, there are other ways that we can do more targeted assistance. If we're talking about a \$10 million budget shortfall, if we could find that funding, maybe we could vastly expand the HEAP Program in Suffolk County or provide other rebates somehow to low income and lower middle income consumers. Whereas what you're proposing would I think benefit "Big Oil" with about half of it; I'm sure that wasn't intended but I think that will be the consequence. And number two, the guys that drive Hummers get eight miles per gallon will benefit equally with low income families struggling to put gas in their tanks so they can get to the corner grocery store. So I think that if we're serious about this there probably are better approaches that we could take to mitigate high fuel costs and make sure that the money is really going where we want it to go.

**CHAIRMAN ALDEN:**

In response, Legislator Schneiderman?

**LEG. SCHNEIDERMAN:**

Well, this is really just one piece in a governmental response to escalating gasoline prices. And we've done some things on home heating oil, there's lots of things that can be done, you know, from encouraging hybrid vehicles to, you know, other assistance type of programs. It doesn't mean that this particular one shouldn't be done, this one was intended to provide relief across the board to anyone who purchases gasoline, which is pretty much everybody in Suffolk County and I think it would provide some relief. It was originally developed at a time when gas prices were 30% higher, so this isn't going to provide 30% relief, this provides only 4% relief. So we've already have some relief, it's still •• the gas prices are still much higher than they were a year ago, but I think it's a worthy measure. And I don't see how "Big Oil" is going to benefit. Maybe some mom and pop gasoline stations, if they refuse to pass the savings along to the consumer, but if it's as competitive a market as was explained here two weeks ago when we were talking about the price fluctuating on, you know, no more than one

time per day as the Presiding Officer's resolution is looking to prevent.

**CHAIRMAN ALDEN:**

Jon Cooper's resolution as well.

**LEG. SCHNEIDERMAN:**

Right, and Jon has a resolution as well. If those forces are in play and it's a very competitive market, then I would think that this type of measure would provide the relief directly to the consumers and you wouldn't see the stores taking advantage of it.

**LEG. COOPER:**

Just for the record, I want to say that I think that you'd never see this sort of debate up in Albany on legislation like this and I think it's healthy because.

**CHAIRMAN ALDEN:**

Yeah, I think it's good.

**LEG. COOPER:**

I think I still disagree, but I appreciate your position.

**LEG. SCHNEIDERMAN:**

I'll make a motion to approve.

**LEG. LINDSAY:**

On the motion.

**CHAIRMAN ALDEN:**

Legislator Lindsay.

**LEG. LINDSAY:**

Yeah, Legislator Cooper just mentioned Albany; I know there were bills pending in Albany to remove all of the sales tax on gasoline or declare a moratorium. Do we have any idea what •• where they are?

**CHAIRMAN ALDEN:**

The last I looked, they're all bottled up in committee on both sides. Unless anybody has an update over the last ••

**MR. HOGAN:**

In January, that's first on the list. That's the first thing they're doing when they march up there.

**LEG. SCHNEIDERMAN:**

Yeah, we'll see. Yeah, there's certainly no guarantee that Albany will support this measure.

**LEG. LINDSAY:**

Well, they have similar measures but broader than this.

**LEG. SCHNEIDERMAN:**

Yes. But this is just three months, I think there's a six month measure in Albany and there's a measure to cap the tax at \$2 a gallon, which it's getting close to now anyway, but you'd only tax up to the first \$2 and anything above that would not be subject to sales tax.

**CHAIRMAN ALDEN:**

The interesting part about the tax on gasoline is if you go back in the supply chain to when they pump it out of the ground •• and this is where I have a big problem with other levels of government •• there's an Oil Depletion Tax, there's other franchise taxes that oil companies have to pay, when they crack it from whatever it is, raw, crude and make other distilled products out of it, there's enough tax that's added on that. So what we're paying and what our constituents are paying on is a price, some of the price is built on the product or the cost of getting it out of the ground and refining it, but a lot of the price is built on other taxes. And even on imported oil, we have an Imported Oil Tax, don't we? I think Robert probably knows about all this stuff.

**MR. LIPP:**

There are a couple of other taxes in the food chain before it comes to addition of the excise taxes, State and Federal Excise Taxes which are the big ones, and also the County sales tax, State and County sales tax which is

also a big one; those are smaller but they are there clearly.

**CHAIRMAN ALDEN:**

Even the Oil Depletion Tax, and that's really what you want to call it, I would call it that; that's huge. It adds ••

**MR. LIPP:**

Yeah, and that's indirect because it's not on gas itself but rather on what it's derived from.

**CHAIRMAN ALDEN:**

On the product as it comes out of the ground.

**MR. LIPP:**

Yes, correct.

**CHAIRMAN ALDEN:**

Transportation costs are taxed, when crude is transported there's a tax on that, when it's downloaded at a dock in Louisiana, Texas, wherever, New Jersey, luckily they don't do it over here, but there's a tax on that also. All right, so we have a motion and we have a second on this Sense legislation. All those in favor? Opposed?

**LEG. COOPER:**

In solidarity with Jay, I'll vote for this.

**CHAIRMAN ALDEN:**

To approve?

**LEG. COOPER:**

Yeah, sure, what the heck?

**CHAIRMAN ALDEN:**

All right, it's unanimously approved. Now we go to sense ••

**LEG. COOPER:**

Now someone did say they're not in session anyway, right?

**CHAIRMAN ALDEN:**

They're not in session.

**LEG. COOPER:**

Okay, good. I vote to move.

**CHAIRMAN ALDEN:**

All right. ***Approved (VOTE: 5•0•0•0).***

***Tabled Sense 70•2005 • Sense of the Legislature resolution requesting a cap on sales tax on gasoline (Binder).*** Legislator Binder is not here.

**LEG. SCHNEIDERMAN:**

Is this the \$2 one?

**LEG. LINDSAY:**

I'm going to make a motion to table because if we pass both I think you'd send a mixed message, to tell you the truth.

**LEG. COOPER:**

Yeah, they won't know which of our requests to follow.

**CHAIRMAN ALDEN:**

I'll second that motion.

**LEG. NOWICK:**

I'm sure they're going to do one or the other.

**CHAIRMAN ALDEN:**

Any other debate on it? So we have a motion by Legislator Lindsay to table, second by myself. All those in favor? Opposed? All right, ***that one stands tabled (VOTE: 5•0•0•0).***

Do we have any other business, anybody wants to bring any other business to our attention? Seeing and hearing none, we stand adjourned. Thank you

very much.

**(\*The meeting was adjourned at 1:42 P.M. \*)**

**Legislator Cameron Alden, Chairman  
Consumer Protection Committee**

\\_ \\_ • **Denotes phonetically**